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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,221	09/29/2003	Kenneth R. Thurm	THURM-005A	2504

7590

09/22/2005

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EXAMINER

WATSON, ROBERT C

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,221

Applicant(s)

THURM, KENNETH R.

Examiner

Robert C. Watson

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/29/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Prior art items on the submitted POL-1449 that do not have a date are not considered to be prior art. These items have been lined through by the examiner and have not been considered by the examiner.

Claims 39-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 39 it is stated that both the first end and the second end of the outer lifting structure are connected to the upper support cradle. This is impossible since the drawings clearly show one end of the outer lifting structure resting on the ground surface. Claims 40-44 depend from a cancelled claim and, therefore, these claims are indeterminate of scope and have not been further treated on the merits.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39, 55, 59, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolk.

In Figure 4 of Wolk a lifting device is shown having an inner lifting structure 50, and outer lifting structure 49, an upper cradle support 2,3,9,10,13,33, a common fulcrum 48, and a remoter pressure release 8. Statements pertaining to the type of object being lifted is a matter of intended use that has no patentable significance. In any case, the Wolk device is seen to be capable of performing the recited intended use.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wolk in view of Chiesa et al.

Chiese et al teaches that a lift structure can be made from light weight, high-strength tubing.

To make the lift structure of Wolk from high-strength would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Chiesa et al. One of ordinary skill in the art would have been motivated to do this in order to reduce the weight of the lift.

Claims 39, 46-49, 55, 59, 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motorcyclejacks.com in view of Wolk.

Motorcyclejacks.com shows a motorcycle lift having a lift structure attached to a wheel support cradle. The specific details of the lift structure are not clearly shown.

Wolk shows a lifting structure that appears to similar or identical to that shown in Motorcyclejacks.com. To connect the various inner and outer lift structures to the support cradle of Motorcyclejacks.com so as to have a complete operative device would have been obvious in view of the teachings of Wolk. One of ordinary skill in the art would have been motivated to do this in order to provide a well known lifting arrangement for the motorcycle lift.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motorcyclejacks.com in view of Wolk supra and further in view of Chiesa et al.

To make the lift structure of Motorcyclejacks.com in view of Wolk supra from high-strength would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Chiesa et al. One of ordinary skill in the art would have been motivated to do this in order to reduce the weight of the lift.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rcw



ROBERT C. WATSON
PRIMARY EXAMINER